

**UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF NEW MEXICO**

In re:)
)
) Case No. 13-11743-t7
Fred Dale Van Winkle,)
)
) Debtor,)
)
and)
)
)
Brian Van Winkle, not in his personal capacity but)
solely as co-personal representative)
of the estate of Fred Van Winkle, and **Tammy**)
Sprague, not in her personal capacity but solely as)
co-personal representative of the estate of Fred Van)
Winkle,)
)
Plaintiffs,)
)
vs.)
)
Bellevue Valley Land Co., a New Mexico)
corporation, **John H. Williams**, and **Ellen B.**)
Williams,)
)
Defendants.)

**NOTICE OF DEADLINE FOR FILING OBJECTIONS
TO MOTION TO APPROVE SETTLEMENT**

On August 30, 2021, the parties in the above styled and numbered adversary proceeding filed their Motion to Approve Settlement Agreement (Doc. No. 59)(the “Motion”) A copy of the Motion has been filed with the Court and can be inspected at the United States Bankruptcy Court, Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Suite 360, Albuquerque, NM, 87102.

The parties jointly seek to have the Settlement Agreement between the Debtor, the Estate of Fred Dale Van Winkle, deceased, Brian Van Winkle, individually, and as co-personal

representative of the estate of Fred Van Winkle, Tammy Sprague, individually, and as co-personal representative of the estate of Fred Van Winkle, Bellevue Valley Land Co., John H. Williams and Ellen B. Williams approved. A true and correct copy of the Settlement Agreement is attached to the Motion as **Exhibit 1**.

Any party objecting to the Motion must file its written objection with the Clerk of the United States Bankruptcy Court, Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Suite 360, Albuquerque, NM, 87102, within 21+3 days of the date of mailing of this notice, and serve a copy of the objection on W. T. Martin, Jr., 509 W. Pierce St., P.O. Box 2168, Carlsbad, NM 88221-2168, on Stephen Moriarty, Subchapter V Trustee, and on Ron Holmes, 320 Gold Ave. SW, Suite 1111, Albuquerque, NM 87102 and on the U.S. Trustee, P.O. Box 608, Albuquerque, NM 87103. If you are an attorney, you must electronically file your objection. If no objections are timely filed, an order granting the relief requested in the Motion will be presented to the Court for entry without further notice or a hearing.

The document can be viewed for a per page fee via the PACER (Public Access to Electronic Court Records) system. Log on to PACER at ecf.nmb.uscourts.gov. For registration and use instructions, see pacer.psc.uscourts.gov/index.html. You may also view this document from a computer at the Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday, at no charge.

If objections are timely filed, a preliminary hearing to consider them will be held on short notice before the Honorable David T. Thuma, United States Bankruptcy Judge, in the judge's Hearing Room, adjacent to the Brazos Courtroom, on the 5th floor of the Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Albuquerque, NM 87102.

Appearing by telephone: Counsel/parties may appear via telephone by making arrangements with chambers at least one business day prior to the date of the preliminary hearing. The preferred method for requesting appearance by telephone is to send an e-mail message to thumastaff@nmb.uscourts.gov to notify the Court of your request to appear by telephone. The e-mail message should include the name of the person who wishes to appear by telephone, the party whom that person represents, the matter to be heard, the date and time of the hearing, the names of the debtors and case number, and the telephone number at which the requesting party wishes to be called. If the party requesting telephonic appearance does not have access to e-mail, that party can make arrangements to appear by telephone at the hearing by calling the chambers of Judge Thuma at (505) 600-4640 at least one business day prior to the hearing date.

If no objections are timely filed, a proposed order will be submitted to Judge Thuma for his consideration.

CERTIFICATION OF SERVICE

I, the undersigned, certify that I am, and at all times hereinafter mentioned was, more than 18 years of age; and that I served the within Notice of Deadline for Filing Objections to Motion to Approve Settlement as follows:

Service was made on August 31, 2021.

■ **MAIL SERVICE:** Describe, including addressee:

I certify that on the date noted below, a true and correct copy of this notice was delivered by first class mail postage prepaid to the debtor and to all counsel, creditors, and other parties in interest as shown on the mailing list attached to the original of this notice on file in the Office of the Clerk.

■ **OTHER:** Describe, including names of parties served: Electronic service on the following:

- R Trey Arvizu trey@arvizulaw.com,
eva@arvizulaw.com; shawna@arvizulaw.com; lydia@arvizulaw.com
- Jennie Behles filings@jdbbehles.com, tammir@jdbbehles.com; lawclerk3@jdbbehles.com
- Clarke C. Coll clarkecoll@gmail.com, nm14@ecfcbis.com
- Kenneth Dugan kdugan@lawmdm.com
- Ronald E Holmes rholmes@davismiles.com,
efile.dockets@davismiles.com; apotter@davismiles.com; holmesrr91948@notify.bestcase.com
- W. T. Martin Jr. martinlaw@zianet.com, cgalloway@lawmdm.com
- Jaime A. Pena jaime.a.pena@usdoj.gov,
Lynn.ReneDiamond@usdoj.gov; Mary.L.Johnson@usdoj.gov
- United States Trustee ustpregion20.aq.ecf@usdoj.gov

Respectfully submitted,



By _____
W. T. Martin, Jr.
509 W. Pierce St.
P.O. Box 2168
Carlsbad, NM 88221-2168
(575) 887-3528
Fax (575) 887-2136
e-mail: martinlaw@zianet.com
Attorney for Defendants

EXHIBIT "1"

SETTLEMENT AGREEMENT

This Settlement Agreement is made this 24th day of August, 2021, by and between John Williams, Ellen B. Williams, and Bellevue Valley Land Co., Inc. (jointly and severally "Williams") and the Estate of Fred Dale Van Winkle ("Van Winkle") and Tammy Sprague and Brian Van Winkle.

WHEREAS, John Williams represents he has the power of attorney from Ellen B. Williams, his spouse, and is president of Bellevue Valley Land Co., Inc., and can and hereby does bind both;

WHEREAS, Tammy Sprague and Brian Van Winkle are the co-personal representatives of Van Winkle and have the power to and hereby do bind it (subject to bankruptcy court approval);

WHEREAS, disputes have arisen between the parties hereto with regard to various issues;

WHEREAS, Van Winkle is the debtor in the pending Chapter 7 bankruptcy proceeding *In re Fred Dale Van Winkle*, Case No. 13-11743-t7 (the "Bankruptcy");

WHEREAS, the parties are in litigation in Otero County, New Mexico, appeals are pending or have been threatened and transcripts of judgment in favor of parties have been filed in various counties in New Mexico and;

WHEREAS, the parties entered into good faith mediation discussions with Paul M. Fish as mediator in an effort to resolve their differences, and such mediation resulted in this Settlement Agreement. Williams was represented in the negotiations by W.T. Martin and Ken Dugan and Van Winkle was represented by Ron Holmes.

Now, therefore, the parties agree as follows:

1. Williams shall retain the Otero County land which was foreclosed.

2. Van Winkle will pay Williams \$40,000 and the Lincoln County condo shall be released from any and all claims by Williams.

3. The Roosevelt County land shall be released from any and all claims by Williams.

4. The Martin Dugan & Martin (the "Martin Firm") trust check in the amount of \$46,108.72 previously sent to Van Winkle shall be destroyed, but the satisfaction of judgment form and the release of transcript of judgment form sent to Van Winkle with the check shall be executed and delivered to counsel for Williams.

5. The Martin Firm has in its trust account \$73,200 (which has been referred to as the "Redemption Funds"). \$50,000 of that amount shall be paid to Van Winkle and the balance shall be paid to Williams.

6. Williams shall release all transcripts of judgment in all counties.

7. All disputed actions between the parties, including appeals, shall be dismissed with prejudice.

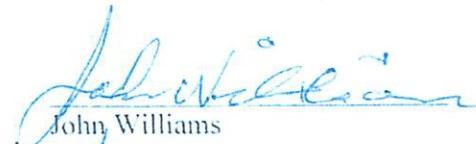
8. The parties will execute mutual releases of all claims of Williams on one hand and Van Winkle and Tammy Sprague and Brian Van Winkle individually on the other.

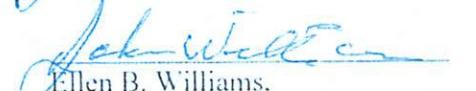
9. Counsel will work together to resolve all the pending court actions and prepare any necessary documents to effectuate the intent of this settlement.

10. In the event of any disputes regarding the terms of this Settlement Agreement, including but not limited to the terms of the various documents, motions to dismiss, forms of judgments, releases, and any other matter, the parties agree to appoint Paul M. Fish to act as arbitrator to resolve any such disputes. His decision regarding the terms shall be final. In such decision, he shall determine who pays the costs of the arbitration.

11. This agreement is subject to the approval of the Bankruptcy Court for Van Winkle. All parties represent that they will support such approval. It shall be final when the Order of the Bankruptcy Court approving it is final and non-appealable. At that time, the parties shall expeditiously fulfill the provisions hereof.

Executed this 24th day of August, 2021.

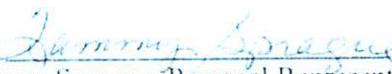

John Williams


Ellen B. Williams.
By John Williams, by Power of Attorney

Bellevue Valley Land Co., Inc.

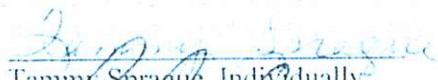
By: 
John Williams, President

Estate of Fred Dale Van Winkle

By: 
Tammy Sprague, Personal Representative

Estate of Fred Dale Van Winkle

By: 
Brian Van Winkle, Personal Representative


Tammy Sprague, Individually


Brian Van Winkle, Individually

Approved as Representing the Agreement:


W. T. Martin, Esq.


Ron Holmes, Esq.

Label Matrix for local noticing

1084-1
Case 20-01022-t
District of New Mexico

Albuquerque
Tue Aug 31 09:44:19 MDT 2021

Ronald E Holmes
Davis Miles McGuire Gardner, PLLC
320 Gold SW
Suite 1111
Albuquerque, NM 87102-3246

Equifax
PO Box 740241
Atlanta, GA 30374-0241

Experian
PO Box 2002
Allen, TX 75013-2002

W. T. Martin Jr.
Martin Degan & Martin
PO Box 2168
Carlsbad, NM 88221-2168

New Mexico Taxation & Revenue Department
PO Box 8575
Albuquerque, NM 87198-8575

TransUnion LLC
Attn: Public Records Dept.
PO Box 2000
Chester, PA 19016-2000

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) Bellevue Valley Land Co.

(u) Tammy Sprague

(u) Brian Van Winkle

(u) Ellen B. Williams

(u) John H. Williams

End of Label Matrix	
Mailable recipients	6
Bypassed recipients	5
Total	11